

**THE HONORABLE MARY JO HESTON  
CHAPTER 13**

**HEARING DATE: October 25, 2018**

**HEARING TIME: 1:00 P.M.**

**LOCATION: Tacoma, Washington**

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON AT TACOMA**

In re:

BRIAN DOUGLAS DESKINS and  
CHERYL ANN DESKINS,

Debtors.

Case No.: 18-42845-MJH

TRUSTEE'S OBJECTION TO CONFIRMATION  
WITH STRICT COMPLIANCE

**COMES NOW**, Michael G. Malaier, Chapter 13 Standing Trustee, and objects to  
confirmation as follows:

**BACKGROUND**

Debtors filed this Chapter 13 case on August 21, 2018. The applicable commitment period is sixty months. The case is currently in the second month and the Meeting of Creditors has not yet been completed. The bar date for filing non-governmental claims is October 30, 2018. Scheduled unsecured claims total \$157,909.93, and scheduled priority claims total \$48,364.41. Debtors propose to pay at least \$47,513.52 to allowed nonpriority unsecured claims.

**OBJECTION**

☐ Plan is not feasible:

☐ Plan is not proposed in good faith or is forbidden by law:

☒ Plan fails to commit all excess disposable income for the applicable commitment period as required by 11 U.S.C. § 1325(b)(1)(B): The debtors most provided a evidence to support a deviation from the means test result. While a court may account for “changes in the debtor’s income or expenses that are known or virtually certain at the time of confirmation,” the debtors have not provided any evidence of such changes. *Hamilton v. Lanning*, 130 S.Ct. 2464 (2010). The debtors are seeking to reduce the amount paid to unsecured creditors from \$175,920.00 to \$47,513.52. *See* ECF # 2, pg. 3. Debtors must provide evidence of a change in the debtors’ income or expenses.

Trustee also requires that the debtors provide twelve months of bank statements for the debtor’s business, twelve months of profit and loss statements, the debtors’ business address, and the trustee’s business information sheet.

☒ Plan does not meet the best interests of creditors test as required by 11 U.S.C. § 1325(a)(4): Trustee requires the following documents in order to complete his review:

(1) A sock statement for debtors’ UPS stock.

(2) All bank accounts associated with debtors’ business. It should also be noted that debtors inappropriately set the value of the business bank accounts with business debt, as debtor is a sole proprietor. *See* ECF # 1, pg. 14.

☐ Schedules or other documentation insufficient:

☒ Other: Debtors’ should be required to amend their plan to provide for the secured claim of the IRS. *See* Claim # 2

**WHEREFORE**, Trustee requests that the objection to confirmation be sustained and debtors be ordered to file a motion to confirm a plan resolving the issues raised herein within 14 days of entry of the Order Sustaining Trustee’s Objection to Confirmation; and to set the hearing on the next available motion calendar after the 14 days expires. If the Motion to

1 Confirm resolving the Trustee's issues is not filed and set for hearing as outlined above, the  
2 Trustee requests he be allowed to enter an order dismissing the case, *ex parte*, without notice.

3 **DATED** this 15th day of October, 2018.

4  
5 /s/ Matthew J.P. Johnson  
6 Matthew J.P. Johnson, WSBA# 40476 for  
7 Michael G. Malaier, Chapter 13 Trustee

8 **CERTIFICATE OF MAILING**

9 I declare under penalty of perjury under the laws of the United States as follows: I  
10 mailed via regular mail a true and correct copy of the Trustee's Objection to Confirmation with  
11 Strict Compliance to the following:

12 Brian Douglas Deskins  
13 Cheryl Ann Deskins  
14 5016 – 64<sup>th</sup> Ave. W.  
15 University Place, WA 98467

16 The following parties received notice via ECF:

17 Lance E. Olsen  
18 Noel P. Shillito  
19 US Trustee

20 Executed at Tacoma, Washington on the 15<sup>th</sup> day of October, 2018.

21 /s/Tracy Maher  
22 Tracy Maher  
23 Office Manager  
24 Michael G. Malaier  
25 Chapter 13 Trustee